

## **RESOLUTION NO. 11-13**

### **RESOLUTION OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AUTHORIZING THE EXECUTION OF A FIRST SUPPLEMENTAL INDENTURE TO AN INDENTURE OF TRUST, DATED AS OF FEBRUARY 1, 2007, BETWEEN THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AND WELLS FARGO BANK, AS TRUSTEE, AND A FIRST AMENDMENT TO A LOAN AGREEMENT, DATED AS OF FEBRUARY 1, 2007, BETWEEN THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK AND SONOMA ACADEMY FOR THE PURPOSE OF FINANCING AN ECONOMIC DEVELOPMENT FACILITY**

**WHEREAS**, the California Infrastructure and Economic Development Bank (the "Issuer") was established pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act (California Government Code Section 63000 and following) (the "Act"), for the purpose of promoting economic development; and

**WHEREAS**, the Issuer is authorized to issue tax-exempt obligations to provide financing for economic development facilities (as such term is defined in the Act) located in the State of California; and

**WHEREAS**, on January 23, 2007, the Issuer adopted Resolution No. 07-02 (the "Resolution"), which approved the issuance of its tax-exempt (1) Senior Fixed Rate Revenue Bonds (Sonoma Academy Project), Series 2007A in an aggregate principal amount of \$23,000,000 (the "Senior Bonds"), (2) Subordinate Fixed Rate Revenue Bonds (Sonoma Academy Project), Series 2007B in an aggregate principal amount of \$7,000,000 (the "Subordinate Bonds"), and (a) Junior Subordinate Fixed Rate Revenue Bonds (Sonoma Academy Project), Series 2007C in an aggregate principal amount of \$4,000,000 (the "Junior Subordinate Bonds" and, together with the Senior Bonds and the Subordinate Bonds, the "Bonds") and a loan of the proceeds of the Bonds from the Issuer to Sonoma Academy, a California nonprofit public benefit corporation (the "Borrower"), for the purpose of (1) the construction, installation, equipping and furnishing of a school facility consisting of (a) three new buildings comprising approximately 90,000 square feet in total and including a building to house a gymnasium, administration facilities and arts facilities, a building to house a library, classrooms and digital arts facilities and a building to house a black box theatre and classrooms for theater arts, (b) site improvements including an athletic field, an outdoor amphitheatre and landscaping, and (c) other educational facilities determined to be necessary by the Borrower (collectively, the "Project"), all located at 2500 Farmers Lane, Santa Rosa, California, (2) the funding of a reserve fund for the Bonds, and (3) the payment of capitalized interest and certain costs of issuance in connection with the financing, including costs of issuance of the Bonds and the loan of the proceeds thereof to the Borrower; and

**WHEREAS**, pursuant to the Resolution, the Issuer entered into an Indenture of Trust, dated as of February 1, 2007 (the "Original Indenture"), between the Issuer and Wells Fargo Bank,



National Association, as trustee (the "Trustee"), and a Loan Agreement, dated as of February 1, 2007 (the "Original Loan Agreement"), between the Issuer and the Borrower, providing for a loan of the proceeds of the Bonds from the Issuer to the Borrower for the purpose of financing the Project and paying costs of issuance in connection with the Bonds; and

**WHEREAS**, certain events of default have occurred under the Original Indenture and the Original Loan Agreement as a result of the Borrower's failure to make payments of principal and interest on the Bonds and its failure to comply with certain covenants under the Original Indenture and the Original Loan Agreement, and, pursuant to the terms of the Original Indenture, on October 13, 2010 the Trustee gave written notice of such events of default to the Issuer, the Borrower and the registered owners of the Bonds and, on December 14, 2010, declared all of the Bonds to be immediately due and payable;

**WHEREAS**, to avoid the cost, delay and uncertainty of litigating such events of default, AIG Commercial Equipment Finance, Inc., as the bondholder of the Senior Bonds (the "Senior Bond Holder") and the Borrower have entered into that certain Settlement Agreement, dated April 8, 2011, as amended (the "Settlement Agreement"), whereby (i) the payments with respect to the Senior Bonds shall be modified and rescheduled, subject to the consent of the Issuer, (ii) certain financial reporting obligations and covenants under the Original Loan Agreement shall be modified, subject to the consent of the Issuer, and (iii) the Borrower agreed to cause all obligations of under the Subordinate Bonds and the Junior Subordinate Bonds to be unconditionally forgiven and cancelled in full;

**WHEREAS**, the Junior Subordinate Bonds have been returned to the Trustee and are deemed paid and cancelled pursuant to the Original Indenture; and

**WHEREAS**, the Borrower has negotiated a release agreement with the holders of the Subordinate Bonds for the return and cancellation of the Subordinate Bonds and waiver of any existing defaults with respect thereto upon the effective date of the Proposed Amendments (as hereinafter defined); and

**WHEREAS**, the Senior Bonds are currently outstanding in the approximate principal amount of \$23,000,000; and

**WHEREAS**, the Borrower has requested that the Issuer amend the Original Indenture and the Original Loan Agreement to revise the amortization schedule and interest rate with respect to the Senior Bonds, amend and add certain debt service reserve, financial and reporting covenants, and make other conforming changes in accordance with the Settlement Agreement (the "Proposed Amendments"); and

**WHEREAS**, the Senior Bond Holder has directed the Trustee to waive the events of default and rescind their consequences in accordance with the terms of the Original Indenture and the Original Loan Agreement upon the effective date of the Proposed Amendments;

**WHEREAS**, pursuant to Section 11.07 of the Original Indenture and Section 8.05 of the Original Loan Agreement, the Issuer and the Borrower may adopt the Proposed Amendments with the consent of the holders of all of the Senior Bonds outstanding; and



**WHEREAS**, in order to effectuate the Proposed Amendments, there has been presented to this meeting and is now on file with the Secretary of the Board of Directors (the "Secretary") a proposed form of a First Supplemental Indenture (the "Supplemental Indenture") to be entered into by and between the Issuer and the Trustee, and a First Amendment to Loan Agreement (the "Loan Agreement Amendment") to be entered into by and between the Issuer and the Borrower.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the California Infrastructure and Economic Development Bank, as follows:

**Section 1.** The above recitals are true and correct.

**Section 2.** Subject to receipt by the Issuer of (i) the written consent of the Trustee, the Borrower, the Senior Bond Holder, (ii) a release by the Subordinate Bond Holder, (iii) satisfactory evidence that the Subordinate Bonds and the Junior Subordinate Bonds are no longer Outstanding, and (iv) a written rescission by the Trustee of the existing events of default, the Issuer hereby approves the Proposed Amendments, including, the change of the interest rate payable on the Senior Bonds, the change in the timing of payment with respect to the Senior Bonds, and the addition or amendment of certain debt service reserve, financial and reporting covenants. The other terms of the Bonds, are hereby approved, confirmed and ratified.

**Section 3.** The proposed form of the Supplemental Indenture on file with the Secretary is hereby approved and the Chair of the Board of Directors, the Chair's designee, the Executive Director or the Executive Director's assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver the Supplemental Indenture in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Issuer's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof. The Secretary is authorized to attest to the execution of the Supplemental Indenture. The Trustee is hereby requested and directed to enter into the Supplemental Indenture.

**Section 4.** The proposed form of the Loan Agreement Amendment on file with the Secretary is hereby approved and the Chair of the Board of Directors, the Chair's designee, the Executive Director or the Executive Director's assignee, each acting alone, is hereby authorized and directed, for and on behalf and in the name of the Issuer, to execute and deliver the Loan Agreement Amendment in substantially said form, with such changes and insertions therein as may be necessary or appropriate to cause the same to carry out the intent of this resolution and as the officer or official executing the same, with the advice of the Issuer's counsel, may require or approve, such requirement or approval to be conclusively evidenced by the delivery thereof. The Secretary is authorized to attest to the execution of the Loan Agreement Amendment.

**Section 5.** The revised Senior Bond certificate shall be executed by the manual or facsimile signature of the Chair of the Board of Directors, or the Chair's designee, or the Executive Director, or the Executive Director's designee, and attested by signature of the Secretary in the form set forth in and otherwise in accordance with the Supplemental Indenture.

**Section 6.** The new Senior Bond certificate, when so executed, shall be delivered to

the Trustee for authentication by the Trustee. The Trustee is hereby requested and directed to authenticate and register the Senior Bond certificate so delivered by executing the appropriate Certificate of Authentication and Registration appearing thereon, and deliver the new Senior Bond certificate, when duly executed, authenticated and registered, to the registered owner thereof.

**Section 7.** The Chair of the Board of Directors, the Chair's designee the Executive Director or the Executive Director's assignee, each acting alone, is hereby authorized to execute all certificates and instruments which they, with the advice of counsel to the Issuer, deem necessary or appropriate to this transaction and to effectuate the purposes of this resolution, including, but not limited to, a letters of representations, consents, releases, certifications of authority and bring-down certificates.

**Section 8.** All actions heretofore taken by the officers, employees and agents of the Issuer with respect to the actions contemplated by this resolution are hereby approved, confirmed and ratified, and the officers of the Issuer and their authorized designees, deputies, agents and counsel are hereby authorized and directed, jointly and severally, to perform their duties and to execute and deliver any and all certificates which they, or counsel to the Issuer, may deem necessary or advisable in order to consummate the Proposed Amendments and otherwise to effectuate the purposes of this resolution.

**Section 9.** This resolution shall take effect from and after its adoption.

PASSED, APPROVED, AND ADOPTED at a meeting of the California Infrastructure and Economic Development Bank on June 28, 2011, by the following vote:

AYES: REYES, LUJANO, JIMENEZ, CABALLERO, RICE

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By Stanton C. Hazelroth  
Stanton C. Hazelroth, Executive Director

Attest:

By Roma Cristia-Plant  
Roma Cristia-Plant,  
Secretary of the Board of Directors